



### **EXECUTIVE ORDER NUMBER SIXTY-NINE**

- WHEREAS, the proliferation of Project Labor Agreements as a result of Executive Order Number 22, dated February 3, 2010, issued by Governor Chet Culver has impacted the essence and the spirit of the competitive bidding process for state funded projects and has infringed upon Iowa's Right to Work law; and
- WHEREAS, in the procurement of public projects, Project Labor Agreements have disadvantaged small business, minority and women owned companies and contractors throughout the State of Iowa; and
- WHEREAS, Project Labor Agreements have increased the costs of Public Works Projects, chilled the competitive bidding environment for Public Works Projects, and thereby caused detriment to the Iowa taxpayer and our citizenship; and
- WHEREAS, the State of Iowa shall endeavor to encourage efficiency and reward contractor innovation in the procurement and construction of Public Works Projects by avoiding the use of Project Labor Agreements, which only increase limitations and restrictions on a contractor's ability to perform effectively; and
- WHEREAS, fair and open contracting for publicly funded construction projects aids in lowering the cost of such projects and ensures that all workers, both union and non-union, have a fair and equal opportunity to work on Public Works Projects being built in the great State of Iowa.

Now, therefore, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Iowa, do hereby rescind Executive Order Number 22, dated February 3, 2010, issued by Governor Chet Culver. Further, I order and issue this Executive Order prohibiting the use of Project Labor Agreements by the State of Iowa and its Political Subdivisions on Public Works Projects effective immediately:

1. For the purposes of this Order, the following definitions shall apply:
  - a. "State Funds" as used in this order includes any tax payer dollars or other funds of the State, including, but not limited to, general fund obligations, funds derived from the assessment of fines, fees of any sort, income taxes, corporate taxes, property taxes, sales taxes, taxes on gaming revenues, funds derived from the proceeds on the issuance general purpose, appropriation and/or revenue bonds, projects funded from the Rebuild Iowa Infrastructure Fund, projects funded by road use tax funds, projects funded in whole or in part by state grants, financial assistance, loans, forgivable loans, loan guarantees, subsidies, tax exemptions and tax credits.
  - b. "Political Subdivision" as used in this Order includes a city, county, township, school district, area education agency, institutions under the control of the State Board of Regents, community colleges, or any other local board, commission, committee, council, association or tribal council that receives or uses any State Funds.
  - c. "Project Labor Agreement" means an arrangement mentioned or outlined within the project specifications or bidding documents of a Public Works Project that imposes requirements, controls or limitations on staffing, source of employee referrals, assignment of work, source of insurance and benefits including health, life and disability insurance and retirement pensions, training

programs or standards, or wages; or requires a contractor to enter into any sort of agreement as a condition of submitting a bid that directly or indirectly limits or requires the contractor to recruit, train or hire employees from a particular source to perform work on the Public Works Project.

- d. "Public Owner" as used in this order includes any person or entity receiving or using State Funds in whole or in part, including the State, its Departments, its Agencies, its Political Subdivisions, any board or commission of the State or of a Political Subdivision of the State, any institution supported in whole or in part by State Funds, or any agent, officer, official, or authority of any of these.
- e. "Public Works Project" as used in this order means a building or other project which is constructed by or under the control of a Public Owner and is paid for in whole or in part with State Funds or funds from any federal source. Public Works Project includes, but is not limited to, any contract for the construction, rehabilitation, alteration, conversion, extension, maintenance, or repair of buildings, highways, bridges, tunnels, transportation facilities, water or sewage treatment plants, power plants, or other improvements to real property.
- f. "Labor Organization" as used in this Order shall have the same meaning as it has in 29 U.S.C. 152(5) and 42 U.S.C. 2000e(d), and shall also include and mean an area or state building and construction trades or crafts council, organization or association or comparable body.

2. The State, its Departments, its Agencies, its Political Subdivisions, and any Public Owner shall not enter into or utilize a Project Labor Agreement on any Public Works Project. The State, its Departments, its Agencies, its Political Subdivisions, and any Public Owner shall also not enter into or utilize any sort of agreement that attempts to impose any of the following requirements as a condition of submitting a bid or entering into a construction contract for or relating to a Public Works Project:

- a. Controls or puts limitations on staffing.
- b. Serves as a single source of employee referrals.
- c. Designates assignment of work.
- d. Stipulates a specific source of insurance and benefits including health, life and disability insurance and retirement pensions.
- e. Requires proprietary training programs or standards.
- f. Mandates wage levels, except in those instances of federal Davis-Bacon wage requirements.

3. Through this Order, a contractor shall not be obligated to become a party to a contract with any Labor Organization nor shall it be required to observe the terms and conditions of a contract entered into with one or more Labor Organizations for the construction of any Public Works Project.

4. This Order shall apply to any and all Public Works Projects for which a construction contract has not yet been entered into by the State, its Departments, its Agencies or any of its Political Subdivisions, unless otherwise prohibited by federal law or regulation. Further, with respect to all contracts for Public Works Projects which were entered into prior to the date of this Order but where the lowest, responsible and responsive bidder had not yet been selected, the State, its Departments, Agencies, and all Political Subdivisions affected must take action, to the extent practical and permitted by law, to conform said contracts, related bid specifications, project agreements, and other controlling documents, in order to conform to and implement the provisions of this Order. However, this Order shall not govern any contracts for Public Works Projects that were both entered into and where the lowest, responsible and responsive bidder had been selected prior to the date of this Order.

5. The heads of all State Departments and Agencies, and Political Subdivisions of the state will immediately revoke any orders, rules, regulations, guidelines, or policies related to contracts for Public Works Projects which are not consistent with this Order, or immediately commence revocation action pursuant to law. In addition, the heads of all State Departments and Agencies, and Political Subdivisions of such, will immediately promulgate and implement any orders, rules, regulations, guidelines, or policies necessary to comply with the purposes and intent of this Order.

6. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.

7. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.

IN TESTIMONY WHEREOF, I have hereunto  
subscribed my name and caused the Great Seal of  
Iowa to be affixed. Done at Des Moines this 14th  
day of January, in the year of our Lord two  
thousand eleven.

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TERRY E. BRANSTAD  
GOVERNOR

ATTEST:

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MATTHEW SCHULTZ  
SECRETARY OF STATE